



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: William F. Sherry, A.A.E.

SUBJECT: SEE BELOW

DATE: 04/07/06

Approved

Date

4/07/06

**SUBJECT: APPROVAL OF A FIRST AMENDMENT TO THE SCHEDULED AIRLINE
OPERATING AGREEMENT AND CONTINUATION AGREEMENT WITH SKYWEST
AIRLINES**

REASON FOR SUPPLEMENTAL

To provide additional information regarding lease provisions regarding compliance with the Airport Curfew Ordinance and regarding staff discussions with Skywest on the terms of a proposed Mutual Agreement Regarding Curfew Compliance.

BACKGROUND

Questions have arisen regarding the difference between the provisions regarding compliance with the City's Airport Curfew Ordinance in the proposed First Amendment to the Skywest Operating Agreement and License ("First Amendment") and the additional provisions regarding Curfew Hour operations in the proposed Mutual Agreement Regarding Curfew Compliance ("Mutual Agreement"). Skywest has agreed to the curfew provisions in the proposed First Amendment, but Skywest has declined to sign the proposed Mutual Agreement.

ANALYSIS


The proposed First Amendment incorporates the specifics of the City's Curfew Ordinance as adopted by Council on October 21, 2003. In addition to Skywest's agreement to comply with the Curfew Ordinance and any subsequent amendments to the Curfew Ordinance, the First Amendment also provides that Skywest will not schedule or conduct takeoffs or landings during the Curfew Hours (11:30 pm and 6:30 am), unless conducted by an aircraft that is allowed to operate during the Curfew Hours. In other words, in addition to agreeing to abide by the Ordinance, Skywest has also agreed to a separate and independent contractual provision with the City to comply with the flight restrictions set out in the Ordinance.

To date, this curfew language has been agreed to by four airlines operating at the Airport: UPS, Hawaiian Airlines, Mexicana Airlines, and Skywest. Staff is working to negotiate this language with the other airlines at the airport.

The Mutual Agreement is a separate agreement that the City has negotiated with a number of airlines to provide for the airlines and City staff to make extra efforts above and beyond the terms of the Curfew Ordinance to better ensure compliance with the City's Curfew Ordinance. For example, if an airline has a flight scheduled to depart at 11:20 p.m. with an aircraft that is prohibited from operating during the Curfew Hours and that has a history of late departures during the Curfew Hours, staff will work with the airline in an effort to move the departure to an earlier time that will be less likely to be delayed into the Curfew Hours. To date, the City has entered into Mutual Agreements with the following airlines:

- Air Transport International, LLC
- American Airlines
- American Trans Air (ATA)
- Continental Airlines
- Delta Air Lines
- Mexicana Airlines
- Northwest Airlines
- Southwest Airlines
- United Airlines
- United Parcel Service (UPS)

It is important to note that, to date, all of the airlines that have entered into Mutual Agreements operate at least one aircraft that is prohibited by the Curfew Ordinance from operating at the Airport during the Curfew Hours. In contrast, the current fleet of aircraft operated by Skywest Airlines are all allowed to takeoff and land at the Airport during Curfew Hours. In an effort to further restrict operations during the Curfew Hours, staff requested that Skywest sign a Mutual Agreement whereby Skywest would voluntarily agree not to conduct operations during the Curfew Hours, regardless of the fact that Skywest's fleet of aircraft are permitted to operate during the Curfew Hours. Although Skywest does not currently operate during the Curfew Hours, and has informed staff that it presently has no intention to do so, Skywest has declined staff's request to make this commitment in the proposed Mutual Agreement.

for 
WILLIAM F. SHERRY, A.A.E.
Director of Aviation

For questions, please contact Bill Sherry at (408) 501-7669

